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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,986	03/24/2005	Robert Simm	3210	6382

7590 08/17/2006

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/528,986

Applicant(s)

SIMM ET AL.

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/24/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on October 6, 2003. It is noted, however, that applicant has not filed a certified copy of the 103 46 207.4 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0141836 A1 to Ege et al.

Ege et al. discloses a suction device (1) for a power drilling tool (2) with at least one dust container (20) and at least one suction head (3) to be placed on a work piece (8), wherein the dust container is integrated with the suction head (see fig.1). A suction unit (M) integrated in the power tool for producing a vacuum in the suction head (see fig.1). The suction device includes a cooling fan (17) of the power tool. A unit (13) including at least the suction head or the dust container and is capable of being detachably retained on the power tool (see fig.1). The unit is retainable on the power tool using a snap-in connection (19, 19'). The suction head is supported on a housing of the power tool by a bearing unit (11) such that it is displaceable along a working

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direction (see fig.1). The bearing unit includes a depth stop (5). The suction head includes at least one opening through which a tool (10) is capable of being guided in at least one operating state (see fig.1). An air stream (defined by the arrows in fig.1) is capable of being introduced into the dust container through a duct section (defined by 'B') of the suction head in a circumferential direction of the dust container (see fig.1).

Claims 1-5, 7, 9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,129,467 to Watanabe et al.

Watanabe et al. discloses a suction device (22) for a power hammering tool (20) with at least one dust container (34) and at least one suction head (27a) to be placed on a work piece (56), wherein the dust container is integrated with the suction head (see figs. 2, 3). A suction unit (37) integrated in the power tool for producing a vacuum in the suction head (see fig. 3). The suction device includes a cooling fan (55) of the power tool. A unit (30) including at least the suction head or the dust container and is capable of being detachably retained on the power tool (see figs.1, 2). The suction head is supported on a housing (23) of the power tool by a bearing unit (29) such that it is displaceable along a working direction (see figs.1, 2). The suction head includes at least one opening (28) through which a tool (21) is capable of being guided in at least one operating state (see figs.1, 2). An air stream is capable of being introduced into the dust container through a duct section (27b) of the suction head in a circumferential direction of the dust container (see figs.1, 2).

Claims 1, 2, 4, 5, and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,090,499 to Cuneo.

Cuneo discloses a suction device (10) for a power drilling tool (38) with at least one dust container (34) and at least one suction head (26) to be placed on a work piece, wherein the dust container is integrated with the suction head (see fig.1). A suction unit (51) integrated in the power tool for producing a vacuum in the suction head (see column 1, lines 54-68). A unit (12) including at least the suction head or the dust container and is capable of being detachably retained on the power tool (see fig.1). The suction head is supported on a housing of the power tool by a bearing unit (24) such that it is displaceable along a working direction (see figs.1, 4). The bearing unit includes a depth stop (31). The suction head includes at least one opening (42) through which a tool is capable of being guided in at least one operating state (see fig.1). Various dimensions can be selected for the opening (via elastic membrane 43), wherein the opening forms one end of a funnel-shaped receiving area (44) that tapers in the working direction (see figs.1, 7). An air stream is capable of being introduced into the dust container through a duct section (41) of the suction head in a circumferential direction of the dust container (see fig.1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA

08/11/2006


MONICA CARTER
SUPERVISORY PATENT EXAMINER